

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STENIO and RAQUEL DESOUSA,

Plaintiffs,

V.

J.N. CARPENTRY, INC., et al.,

Defendants,

V.

**SEGOES CARPENTRY, INC. and LAYNE
THOMAS BUILDERS, INC.,**

Third Party Defendants.

CIVIL ACTION NO. 05-787-SLR

THIRD-PARTY COMPLAINT

Defendant/Third Party Plaintiff, J.N. Carpentry, Inc., by and through its attorneys, files this Third Party Complaint against the Third Party Defendants Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., and in support thereof, avers as follows:

1. Defendant/Third Party Plaintiff J.N. Carpentry, Inc. (referred to hereinafter as Third Party Plaintiff) is a New Jersey Corporation with its principal place of business at 108 Grant Street, Riverside, New Jersey, 08075.

2. Upon information and belief, Third Party Defendant, Layne Thomas Builders, Inc., is a Delaware corporation, with a principal place of business at 120 West Market Street, Suite B, Wilmington, Delaware, 19804.

3. Upon information and belief, Third Party Defendant, Segoes Carpentry, Inc., is a business with a principal place of business at 106 Grant Street, Riverside, New Jersey 08074

4. Upon information and belief, this incident arose out of a construction site accident which allegedly occurred on or about November 17, 2003, at or near 100 Cindy Drive, Newark, Delaware 19702.

5. By Stipulation dated November 29, 2007, Defendant/Third Party Plaintiff was granted permission to join Third Party Defendants Layne Thomas Builders, Inc., and Segoes Carpentry, Inc. A true and correct copy of the November 29, 2007, Stipulation as well as the Court's official online docket, evidencing the entry of the Court's Order, is attached hereto collectively as Exhibit "A."

6. In their Complaint and Amended Complaint, Plaintiffs, Stenio and Raquel DeSouza, assert that various acts of negligence on the part of this Third Party Plaintiff and others, were the proximate cause of Plaintiffs' alleged injuries. See attached Exhibits "B" and "C" respectively.

7. This Third Party Plaintiff has filed an Answer to Plaintiffs' Amended Complaint, denying all allegations of negligence. See attached Exhibit "D."

8. On or about November 17, 2003, the Third Party Defendants, Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., were contractors and/or subcontractors working on the construction project where Plaintiff Stenio DeSouza alleges he was injured, which is the subject of this litigation.

9. If the allegations in the Plaintiffs' Complaint are established and proven at trial, those allegations being specifically denied by this Third Party Plaintiff, then any damages alleged to have been sustained by the Plaintiffs were caused in whole or in part by the fault, negligence, and/or carelessness, and/or breach of contract of the Third Party Defendants Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., and without any fault or negligence of Third Party

Plaintiff, and, therefore, the Plaintiffs should recover such damages directly from those Third Party Defendants.

10. As a result of the foregoing and/or contractual indemnification provisions, this Third Party Plaintiff is entitled to recovery from, and against the Third Party Defendants, Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., by way of indemnification and/or contribution, and as damages for breach of contract, for all sums as may be adjudicated and/or awarded against this Third Party Plaintiff, as well as counsel fees and expenses.

WHEREFORE, this Third Party Plaintiff asserts that the Third Party Defendants Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., are solely liable to the Plaintiffs; jointly and/or severally liable to the Plaintiffs; and/or liable over to this Third Party Plaintiff by way of contribution and/or indemnity, and demands judgment in its favor, together with all recoverable fees, costs and expenses.

COUNT I - CONTRIBUTION

J.N. Carpentry, Inc. v. Segoes Carpentry, Inc., and Layne Thomas Builders, Inc.

11. This Third Party Plaintiff, hereby incorporates by reference paragraphs 1-10 of its Third Party Complaint as though set forth herein at length.

12. The carelessness, recklessness and/or negligence of the Third Party Defendants Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., was the proximate cause of any injuries allegedly sustained by the Plaintiffs with regard to the incident in question.

13. As a result of the aforesaid carelessness, recklessness and/or negligence of the Third Party Defendants, Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., those Third Party Defendants are liable over to this Third Party Plaintiff, by way of contribution for any

damages imposed upon this Third Party Plaintiff with respect to the Plaintiffs' present cause of action.

WHEREFORE, this Third Party Plaintiff asserts that the Third Party Defendants Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., are liable to this Third Party Plaintiff by way of contribution or indemnity, and demand judgment in its favor, together with all recoverable fees, costs and expenses.

COUNT II - INDEMNIFICATION

J.N. Carpentry v. Segoes Carpentry, Inc., and Layne Thomas Builders, Inc.

14. This Third Party Plaintiff, hereby incorporates by reference paragraphs 1-13 of its Third Party Complaint as though set forth herein at length.

15. The carelessness, recklessness and/or negligence of Third Party Defendants Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., was the proximate cause of any injuries allegedly sustained by the Plaintiffs with regard to the incident in question.

16. As a result of the aforesaid carelessness, recklessness and/or negligence of Additional Defendants, the Third Party Defendants are liable over to the Third Party Plaintiff, by way of indemnification, under Common Law and/or pursuant to the terms of any applicable contracts, for any damages imposed upon the Third Party Plaintiff with respect to the Plaintiffs' present cause of action.

WHEREFORE, this Third Party Plaintiff asserts that the Third Party Defendants Segoes Carpentry, Inc., and Layne Thomas Builders, Inc., are liable to Third Party Plaintiff for contribution or indemnity, and demand judgment in its favor, together with all recoverable costs, fees and expenses.

Respectfully submitted,

WRIGHT & O'DONNELL, P.C.

/s/ **George T. McCool, Jr.**

George T. McCool, Jr.

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Dated: December 18, 2007

CERTIFICATE OF SERVICE

I, George T. McCool, Jr., hereby certify that a true and correct copy of the foregoing Third-Party Complaint was served on this 18th day of December 2007, upon the below listed counsel of record via electronic filing and/or regular mail:

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